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April 23, 1987

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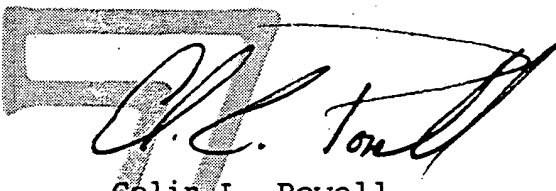
MEMORANDUM FOR THE SECRETARY OF STATE
THE SECRETARY OF THE TREASURY
THE SECRETARY OF DEFENSE
THE ATTORNEY GENERAL
THE SECRETARY OF COMMERCE
THE DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET
THE DIRECTOR OF CENTRAL INTELLIGENCE
THE UNITED STATES TRADE REPRESENTATIVE
THE CHAIRMAN, COUNCIL OF ECONOMIC ADVISORS
THE DIRECTOR, OFFICE OF SCIENCE AND TECHNOLOGY
POLICY
DIRECTOR, NATIONAL SCIENCE FOUNDATION
THE DIRECTOR, NATIONAL SECURITY AGENCY

SUBJECT: NSSD on the National Security and Related Interest
Exceptions to the U.S. Open Investment Policy (S)

The President has signed the attached NSSD, requesting an interagency study of the limited exceptions to the U.S. open investment policy with respect to national security and related interests, for completion by September 30, 1987. (S)

Because of the great sensitivity of the issues potentially raised by this study, the President has directed that all Administration officials refrain from any public remarks relating to the status of this study, or the respective agency positions in our internal debate. Agencies are requested to pay particular attention to the classified nature of this NSSD and to assign only those representatives necessary for its successful completion. Guidelines for public statements to be used on an if asked basis are attached. (S)

FOR THE PRESIDENT:



Colin L. Powell
Deputy Assistant to the President
for National Security Affairs

Attachments
NSSD 8-87
Press Guidelines

cc: Assistant to the President and Cabinet Secretary

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NATIONAL SECURITY STUDY
DIRECTIVE NO. 8-87The National Security and Related Interest Exceptions
to the U.S. Open Investment Policy (S)

The purpose of this National Security Study Directive is to request an examination of the limited exception to the U.S. open investment policy with respect to the adequacy and applicability of safeguards protecting security and related interests. The study will review existing authorities and procedures, attempt to identify potential U.S. security and related interests that may be affected by foreign investment in certain sensitive sectors of the U.S. economy and review and recommend, if appropriate, possible criteria by which foreign investment in sensitive sectors may be evaluated. The study will not undertake a review of the overall U.S. open investment policy, nor provide a forum for reviewing any present or future foreign direct investment in the United States. (S)

Background

The United States maintains an open policy for foreign direct investment which was most recently affirmed in the President's investment policy statement of September 9, 1983. To ensure the maximum contribution to both global and domestic economic well-being, the United States believes that international direct investment flows should be determined by private market forces and should receive non-discriminatory treatment consistent with the principle of national treatment. (S)

The President's investment policy also recognizes that the U.S. will seek to "maintain only those safeguards on foreign investment which are necessary to protect our security and related interests and which are consistent with our international legal obligations." (S)

Terms of Reference

The study will be conducted in two stages. The first stage is intended as an opportunity for the development of interagency consensus on the background, facts and potential implications of foreign direct investment on U.S. security and related interest. The second stage, to be undertaken after step 1 is completed, will be devoted to the development, if appropriate, of interagency conclusions on criteria for evaluating foreign direct investment in sensitive sectors and making potential recommendations. Agency assignments for stage 2, and a possible

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expansion of the terms of reference, if necessary, will be considered at the completion of stage 1. (S)

First Stage

- I. Are there potential adverse implications for national security and related interests inherent in the fact of foreign ownership or control of direct investment in the United States? Does the fact of foreign ownership make a difference for national security and related interests? (S)
 - A. What are these implications and what U.S. security and related interests might be adversely affected? (S)
 - B. Are there certain sectors of the economy, or specific technologies, that may be identified as most sensitive? How do we define "sensitivity" and over what time period? (S)
 - C. Does the source of investment affect the degree of U.S. security and related concerns? (Communist, developed nations, LDC's, specific firms, etc.) (S)
 - D. Are there positive factors to foreign investment which could offset potential risks or contribute positively to national security and related interests? (S)
 - E. What foreign and economic policy objectives need to be kept in mind when considering national security exceptions to the U.S. open investment policy? (S)
 - F. What other features of foreign direct investment, if any, could raise national security and related concerns? (S)

(Commerce, Defense lead, State and Treasury support)

II. Existing Procedures and Authorities

- A. Review of current procedures to evaluate or monitor foreign direct investment in the United States through the Committee on Foreign Investment in the United States ("CFIUS") or other fora. (Treasury chair, with State, Commerce and Defense support) (S)
- B. Review of existing legal authority at the investment stage for U.S. Government control of foreign direct investment affecting national security or other interests. (Treasury chair, with representatives of interagency General Counsels' offices) (S)
- C. Review of existing international obligations. (State chair, with appropriate General Counsel Office representatives) (S)

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The first stage shall be completed by May 29, 1987. (S)

Second Stage

- I. Criteria for Evaluating Foreign Investment in Sensitive Economic Sectors. (S)
 - A. Case-by-case versus broad criteria. (S)
 - B. Relationship of potential criteria to type or size of foreign direct investment. (S)
 - C. Other factors. (S)
- II. Potential Recommendations on policy, procedure and/or authorities. (S)

The NSSD study will be coordinated by the National Security Council staff, with participation from appropriate agencies. It shall be completed by September 30, 1987. (S)

Ronald Reagan

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Guidelines for Public Statements

If asked about Administration plans to review investment policy with respect to national security exceptions.

- An issue has been raised relating to possible criteria for use by the United States in evaluating the national security exceptions to our open investment policy.
- Work is underway to examine some of these issues.